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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of	:	Purva R. Rajkotia, et al.
Serial No.	:	10/659,449
Filed	:	September 10, 2003
For	:	SYSTEM AND METHOD FOR PROVIDING FAST CALL SET-UP IN A WIRELESS COMMUNICATION SYSTEM
Group No.	:	2617
Examiner	:	Naghmeh Mehrpour

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Commissioner for Patents
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Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal. The review is requested for the reason(s) stated in the arguments below, demonstrating the clear legal and factual deficiency of the rejections of some or all claims.

Claims 1-30 were rejected as obvious over Bae *et al.* (US Pat. Pub 2003/0193964, "Bae") in view of *Wentick et al.* (US Pat. Pub. 2003/0231608, "Wentink"). The instant application is drawn to a system and method for providing fast call set-up in a wireless communication system. Bae is drawn to a method of providing packet data service in a wireless telecommunication network, and so discusses some similar issues as the present application. Wentink, on the other hand, is drawn to a direct link protocol in wireless LANs.

For the convenience of the panel, claim 1 is reproduced below:

> 1.   For use in a wireless communication system comprising a plurality of base stations, each of which is capable of communicating with a plurality of mobile stations within a base station coverage area, an apparatus for setting up a call from a mobile station, wherein the apparatus comprises:
> a base station that sets up said call from said mobile station by receiving an origination message from said mobile station;
> wherein said base station sends null frames on a forward traffic channel to said mobile station to verify that said forward traffic channel is reliable instead of sending a base station acknowledgment order to said mobile station to verify that said forward traffic channel is reliable; and
> wherein said base station receives a traffic channel preamble from said mobile station on a reverse traffic channel to said base station to verify that said reverse traffic channel is reliable instead of receiving a mobile station acknowledgement order from said mobile station to verify that said reverse traffic channel is reliable.

Claim 1 requires, among other limitations, that the "base station sends null frames on a forward traffic channel to said mobile station to verify that said forward traffic channel is reliable <u>instead of sending a base station acknowledgment order to said mobile station to verify that said forward traffic channel is reliable</u>". Claim 13 similarly requires "sending null frames from said base

station on a forward traffic channel to said mobile station to verify that said forward traffic channel is reliable <u>instead of sending a base station acknowledgment order to said mobile station</u> to verify that said forward traffic channel is reliable". Claim 25 requires "said mobile station receives null frames on a forward traffic channel from said base station to verify that said forward traffic channel is reliable <u>instead of receiving a base station acknowledgment order from said base station</u>."

As Examiner Mehrpour admits, these limitations are not taught or suggested by Bae. Instead, Bae explicitly requires that "The BS transmits the BS Acknowledgement Order to the MS" (see, *e.g.*, 0035, 0044, 0046, 0062, and 0066). While Bae discusses null traffic data, at no point does Bae teach or suggest that the null data can be used <u>instead</u> of the BS Acknowledgement Order, which is required throughout Bae's description. As is clear, and as the Examiner himself repeatedly emphasizes, <u>Bae teaches directly away from the limitations of claim 1</u>.

Examiner Mehrpour instead alleges that "Wentink teaches a station acknowledges the frame by transmitting acknowledgement frame 608." The "station" of Wentink is not a base station as used in the claims and in Bae – in fact, there is no teaching related to base stations at all in Wentink. Wentink's frame 608 appears to be a transmission between two "Q-stations", which appear to be independent stations on an 802.11 wireless LAN. This is not a message transmitted between a BS and an MS, and has no relation at all to the claimed invention. Wentink is drawn to an 802.11 WLAN, and has nothing to do with the wide-area wireless networks described in the present application and in Bae. As such, Wentink is not analogous art.

Further, even if teachings from Wentink could be applied to Bae, the teaching selected by the Examiner would appear to indicate that one mobile station could send an acknowledgement to

another mobile station. This, of course, has nothing to do with the claimed sending of null frames on a forward traffic channel to a mobile station instead of sending a base station acknowledgment order to the mobile station. Since Wentink does not discuss base stations or wireless stations at all, there can be no relevant teaching, and the frame 608 referenced by the Examiner would appear to be, at best, additional signaling between two mobile stations. If a null frame could have a particular use in a wireless LAN setting, there is still no teaching or suggestion that this use is applicable or useful in other systems.

There is also no proper motivation to combine the "signaling between Q-stations" teaching of Wentink's WLAN with Bae's wireless telecommunications system. The Examiner's stated motivation, "to provide a method that each device in the network can continually monitor the quality of the media", does not relate at all to the proposed combination/modification, and would not lead one of skill in the art to first selectively cull one specific teaching from Wentink, and further modify the Bae and Wentink combination to enable it to work.

Nothing in any cited reference, or any combination of references, teaches or suggests sending null frames instead of a BS Acknowledgement Order from a BS to and MS, and receiving a traffic channel preamble from the MS, to verify the reliability of the forward and reverse traffic channels.

The proposed combined references are different wireless technologies, and nothing in the art teaches or suggests that they can be combined. Even if the references could be combined, there is no motivation to combine them in the particular way to produce the claimed invention. Even if the references were combined as the Examiner proposes, the combination still does not meet the claim limitations. Therefore, independent claims 1, 13, and 25, and dependent claims 2-12, 13-24, and 26-

30 all distinguish over all art of record. All claims should be allowed, and the Applicant should not

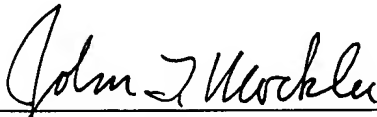be put to the time and expense of an appeal.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the claims in the Application are in

condition for allowance over all art of record, and respectfully requests this case be returned to the

Examiner for allowance or, alternatively, further examination.

The Commissioner is hereby authorized to charge any additional fees connected with this

communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

MUNCK BUTRUS P.C.

Date: _11 Oct. 2006_

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